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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: IKEGAYA, Naoko
Application No. 10/788,453
Filed: March 1, 2004
For: METHOD OF MONITORING STATUS
INFORMATION OF REMOTE STORAGE
AND STORAGE SUBSYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED
EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed February 16, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

- (a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
- (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
- (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;
- (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and


(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed February 16, 2004 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), a complete detailed discussion of the (aforementioned most closely related) references has not been provided with the necessary specificity required under 37 CFR 1.111 (b) and (c). Specifically, Petitioner should ensure that the above discussion is directed to how the language of **each of the independent claims** are specifically distinguishable and patentable from the references provided in requirement (d) above. It is noted that all independent claims presented in the preliminary amendment filed March 15, 2005 do not include at least one or more claim features as alleged by Petitioner to be distinguishable over the references. For instance, independent claims 13 and 18-23 do not recite at least the asserted limitations of: storage systems that are not directly coupled to the host computer; and an upstream storage subsystem connected to the storage subsystem wherein the status information is received from the down-stream storage subsystem. Independent claim 24 does not include the asserted limitations of storage systems that are not directly coupled to the host computer, and storage systems receiving status information command from the host computer. Independent claim 21, in addition to the aforementioned limitations, does not even recite the feature of remote copy status information of storage systems.

Accordingly, Petition to Make Special is **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted by a declaration or statement providing the information as outlined above.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.


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